	Application No.	Applicant(s)
Notice of Allowability	10/054,301	CHILDS ET AL.
	Examiner	Art Unit	
	Marissa Thein	3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to <u>September 20, 2005 and February 14, 2006.</u>

2. ☒ The allowed claim(s) is/are <u>1,5-10 and 12.</u>

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some*   c) ☐ None   of the:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the

           International Bureau (PCT Rule 17.2(a)).

    * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

    (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

        1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____ .

    (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of

        Paper No./Mail Date _____ .

    Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)

3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____ ,

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☒ Interview Summary (PTO-413), Paper No./Mail Date <u>5-12-07</u> .

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____ .

37 CFR § 1.105 Requirement for Information

The "Response to Requirement for Information under 37 CFR 1.105" filed on

February 6, 2006 has been considered.

Oath/Declaration

The copy of the Oath and the Letter of Notice to File Corrected Patent

Application papers enclosed has been acceptable. Therefore, the rejection has been

overcome.

Double Patenting

The rejection under Double Patenting has been withdrawn.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes

and/or additions be unacceptable to applicant, an amendment may be filed as provided

by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be

submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview

with Mr. James Murray on April 25, 2007.

The application has been amended as follows:

In The Claims

Claims 1, 8, 10 and 12 are amended.

<u>Claim 1</u>

<u>In claim 1, page 3, line 3:</u>

Line 3 has been changed to read as follows:

--ranking products of the on-line merchant using a Rank Factor Score (RFS) at

least partially--

In claim 1, page 3, lines 7-8:

Lines 7-8 have been changed to read as follows:

--ranking for taking into account other adjustments to tailor a presentation, the

other ranking factors including factors for a customer's buying preferences and –

In claim 1, page 3, line 14:

Line 14 has been changed to read as follows:

--R = 1-n (RFS) + n (SWF)--

In claim 1, page 3, between lines 15-16:

Insert between lines 15-16:

--RFS is a Rank Score Factor—

In claim 1, page 3, line 16:

Line 16 has been changed to read as follows:

--n is a number less than 1 representing a proportion of the --

In claim 1, page 3, line 18:

Line 18 has been changed to read as follows:

--SWF is the Strategic Weighting Factor for the merchants marketing strategy—

In claim 1, page 3, line 20:

Line 20 has been changed to read as follows:

--transmission software for providing to the shopper the presentation of—

<div align="center">Claim 8</div>

In claim 8, page 5, line 7:

Line 7 has been changed to read as follows:

--weighting computer code for modification of the ranking of at least one of the--

In claim 8, page 5, line 11:

Line 11 has been changed to read as follows:

--R = 1-n [F (w% Tf + x% Popularity + y% SP)] + n (SWF (Strategic Weighting

Factor))—

In claim 8, page 5, line 13:

Line 13 has been changed to read as follows:

--n is a number less than 1 representing a proportion applied to the SWF—

In claim 8, page 5, line 15:

Line 15 has been changed to read as follows:

--SWF = is the Strategic Weighting Factor for the merchants marketing strategy--

In claim 8, page 5, line 16:

Line 16 has been changed to read as follows:

-- w, x, and y = proportions applied to the weighting factors Tf, Popularity, and

SP--

In claim 8, page 5, line 17:

Line 17 has been changed to read as follows:

--Popularity = products popularity conforming to a raw weighting factor--

In claim 8, page 5, line 18:

Line 18 has been changed to read as follows:

-- SP = is shopper buying practice--

<u>In claim 8, page 5, line 20</u>:

Line 20 has been changed to read as follows:

--F is a function of popularity, SP, Tf, and w, x, and y--

<u>In claim 8, page 5, between lines 20-21</u>

Insert between lines 20-21:

--R = Rank; and--

<u>In claim 8, page 5, line 22</u>:

Line 22 has been changed to read as follows:

--merchants products that presents a plurality of the merchants—

Claim 10

<u>In claim 10, page 6, line 2</u>:

Line 2 has been changed to read as follows:

--include a customer's buying characteristics and a product's popularity.--

Claim 12

<u>In claim 12, page 6, line 9</u>:

Line 9 has been changed to read as follows:

--weighting computer code for modification of the ranking of the rank of at least

one of the--

<u>In claim 12, page 6, line 13:</u>

Line 13 has been changed to read as follows:

--R = 1-n [F (w% Tf + x% Popularity + y% SP)] + n (SWF)—

<u>In claim 12, page 6, line 15:</u>

Line 15 has been changed to read as follows:

--n is a number less than 1 representing a proportion applied to the SWF –

<u>In claim 12, page 6, line 17:</u>

Line 17 has been changed to read as follows:

-- SWF = is the Strategic Weighting Factor for the merchants marketing strategy--

<u>In claim 12, page 6, line 18:</u>

Line 18 has been changed to read as follows:

-- w, x, and y = proportions applied to the weighting factors Tf, Popularity, and

SP--

<u>In claim 12, page 6, line 19:</u>

Line 19 has been changed to read as follows:

--Popularity = products popularity conforming to a raw weighting factor--

<u>In claim 12, page 7, line 20:</u>

Line 20 has been changed to read as follows:

-- SP = is shopper buying practice --

<u>In claim 12, page 7, line 22:</u>

Line 22 has been changed to read as follows:

--F is a function of popularity, SP, Tf, and w, x, and y—

In claim 12, page 7, between lines 22-23

Insert between lines 22-23:

--R = Rank; and--

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claim 1

Claim 1 recites a method for enabling an online merchant to tailor a response to a shopper's online interrogation, said software comprising: *inter alia* modifying the ranking of at least one of the merchants products ranked by the ranking factors, which modifications is by a weighting factor based on a marketing strategy of the merchant so that the ranking is in accordance with the following formula:

R = 1-n (RFS) + n (SWF)

where:

RFS is a Rank Factor Score

n is a number less than 1 representing the proportion of the adjustment applied to the SWF weighting factor

SWF is the Strategic Weighting Factor value selected by the merchant

R = Rank.

The most closely applicable prior art of record is U.S. Patent No. 6,466,918 to Spiegel which discloses a method for identifying popular nodes within a browse tree or other hierarchical browse structure based on historical actions of online users, and for

calling such nodes to the attention of users during navigation of the browse tree

(abstract). Node popularity levels are determined periodically based on recent user

activity data that represents users' affinities for such nodes (abstract). Popular nodes

are called to the attention of users by automatically "elevating" the nodes for display

within the browse tree (abstract). Both popular items are elevated on a user-specific

basis using a combination of user-specific and non-user-specific activity data (abstract).

However, Spiegel neither anticipates or fairly and reasonable teaches a method for

enabling an online merchant to tailor a response to a shopper's online interrogation,

said software comprising: *inter alia* modifying the ranking of at least one of the

merchants products ranked by the ranking factors, which modifications is by a weighting

factor based on a marketing strategy of the merchant so that the ranking is in

accordance with the following formula:

R = 1-n (RFS) + n (SWF)

where:

RFS is a Rank Factor Score

n is a number less than 1 representing the proportion of the adjustment applied

to the SWF weighting factor

SWF is the Strategic Weighting Factor value selected by the merchant

R = Rank.

Nabe et al. (U.S. Patent Application Publication No. US 2002/0049701) neither

anticipates or fairly and reasonable teaches a method for enabling an online merchant

to tailor a response to a shopper's online interrogation, said software comprising: *inter*

alia <u>modifying the ranking of at least one of the merchants products ranked by the</u>

<u>ranking factors, which modifications is by a weighting factor based on a marketing</u>

<u>strategy of the merchant so that the ranking is in accordance with the following formula:</u>

<u>R = 1-n (RFS) + n (SWF)</u>

<u>where:</u>

<u>RFS is a Rank Factor Score</u>

<u>n is a number less than 1 representing the proportion of the adjustment applied</u>

<u>to the SWF weighting factor</u>

<u>SWF is the Strategic Weighting Factor value selected by the merchant</u>

<u>R = Rank.</u>

Nabe teaches a method for modeling customer data into a multi-dimensional structure

for access to enable efficient customer targeting (abstract). The method includes the

steps of compiling data from multiple sources to create a relational database, using

tools to model data within the relational database, scoring the modeled data, integrating

scores into a multi-dimensional structure and providing access to end users to the mutli-

dimensional structure.

Claim 8

Claim 8 recites a software product on a computer usable medium for enabling an

on-line merchant to tailor a response to a shopper's on-line interrogations, the software

comprising: *inter alia* <u>weighting computer code modifications of the ranking of at least</u>

<u>one of the merchants product by the ranking computer code, which modifications is</u>

based on a marketing strategy of the merchant so that the ranking of the at least one

product is in accordance with the following formula:

R = 1-n [F (w% Tf +x% Popularity + y% SP)] + n (SWF)

where:

n is a number less than 1 representing a proportion of the adjustment applied to

the SWF weighting factor

SWF is the Strategic Weighting Factor value selected by the merchant

w, x, and y = proportions applied to the weighting factors Tf, Popularity, and SP

Popularity = product popularity conforming to a raw weighting factor

SP = is shopper buying practice

TF = Text Factors

F is a function of popularity, SP, Tf and w, x, and y

R = Rank.

The most closely applicable prior art of record is U.S. Patent No. 6,466,918 to

Spiegel which discloses a method for identifying popular nodes within a browse tree or

other hierarchical browse structure based on historical actions of online users, and for

calling such nodes to the attention of users during navigation of the browse tree

(abstract). Node popularity levels are determined periodically based on recent user

activity data that represents users' affinities for such nodes (abstract). Popular nodes

are called to the attention of users by automatically "elevating" the nodes for display

within the browse tree (abstract). Both popular items are elevated on a user-specific

basis using a combination of user-specific and non-user-specific activity data (abstract).

However, Spiegel neither anticipates or fairly and reasonable teaches a software

product on a computer usable medium for enabling an on-line merchant to tailor a

response to a shopper's on-line interrogations, the software comprising: *inter alia*

weighting computer code modifications of the ranking of at least one of the merchants

product by the ranking computer code, which modifications is based on a marketing

strategy of the merchant so that the ranking of the at least one product is in accordance

with the following formula:

R = 1-n [F (w% Tf +x% Popularity + y% SP)] + n (SWF)

where:

n is a number less than 1 representing a proportion of the adjustment applied to

the SWF weighting factor

SWF is the Strategic Weighting Factor value selected by the merchant

w, x, and y = proportions applied to the weighting factors Tf, Popularity, and SP

Popularity = product popularity conforming to a raw weighting factor

SP = is shopper buying practice

TF = Text Factors

F is a function of popularity, SP, Tf and w, x, and y

R = Rank.

Nabe et al. (U.S. Patent Application Publication No. US 2002/0049701) neither

anticipates or fairly and reasonable teaches a software product on a computer usable

medium for enabling an on-line merchant to tailor a response to a shopper's on-line

interrogations, the software comprising: *inter alia* weighting computer code

modifications of the ranking of at least one of the merchants product by the ranking

computer code, which modifications is based on a marketing strategy of the merchant

so that the ranking of the at least one product is in accordance with the following

formula:

R = 1-n [F (w% Tf +x% Popularity + y% SP)] + n (SWF)

where:

n is a number less than 1 representing a proportion of the adjustment applied to

the SWF weighting factor

SWF is the Strategic Weighting Factor value selected by the merchant

w, x, and y = proportions applied to the weighting factors Tf, Popularity, and SP

Popularity = product popularity conforming to a raw weighting factor

SP = is shopper buying practice

TF = Text Factors

F is a function of popularity, SP, Tf and w, x, and y

R = Rank.

Nabe teaches a method for modeling customer data into a multi-dimensional structure

for access to enable efficient customer targeting (abstract). The method includes the

steps of compiling data from multiple sources to create a relational database, using

tools to model data within the relational database, scoring the modeled data, integrating

scores into a multi-dimensional structure and providing access to end-users to the mutli-

dimensional structure.

Claim 12

Claim 12 recites an Internet server containing software on a computer usable medium for enabling an on-line merchant to tailor a response to a shopper's on-line interrogations, said software comprising: *inter alia*: weighting computer code modification of the ranking of at least one of the merchants product by the ranking computer code, which modifications is based on a marketing strategy of the merchant so that the ranking of the at least one product is in accordance with the following formula:

$$R = 1\text{-}n \ [F \ (w\% \ Tf + x\% \ Popularity + y\% \ SP)] + n \ (SWF)$$

where:

n is a number less than 1 representing a proportion of the adjustment applied to the SWF factor

SWF = is the Strategic Weighting Factor value selected by the merchant

w, x, and y = proportions applied to the weighting factors Tf, Popularity, and SP

Popularity = product popularity conforming to a raw weighting factor

SP = is shopper buying practice

TF = Text Factors

F is a function of popularity, SP, Tf and w, x, and y

R = Rank.

This Internet server containing software on a computer usable medium is allowable over the prior art of record for reasons consistent with those identified above with respect to claim 8.

Newly cited reference World Publication No. WO 01/03036 to McArthur et al. discloses a system that maintains a database of web sites and their subordinate web pages that are offering to sell products and services. The system includes a means to rate the products according to the web site and the product category. The system collects information about is users to crate user profiles for a plurality of users. The user profiles are used to correlate different users during chat requests in support of collaborative shopping and web browsing. (Abstract) However, McAurthur neither anticipates or fairly and reasonable teaches the methods, computer program, and Internet server, recited above.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."
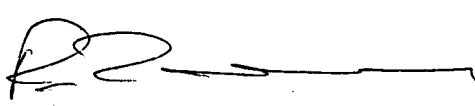
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the
Patent Application Information Retrieval (PAIR) system. Status information for
published applications may be obtained from either Private PAIR or Public PAIR.
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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should
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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mtot
May 12, 2007

5/12/07

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SUPERVISORY PATENT EXAMINER